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HOUSE BILL NO. 598

INTRODUCED BY J. BRUEGGEMAN, BECK, CLANCY, DEPRATU, FISHER, GLASER, KASTEN,
KEENAN, MCGEE, MCNUTT, D. MOOD, SLITER, TAYLOR, F. THOMAS, VICK, J. WELLS, WITT, ZOOK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE SCHEDULED TERMINATION OF STATE
AGENCY PROGRAMS; DESIGNATING PROGRAMS AND TIMES FOR TERMINATION; PROVIDING FOR THE
POWERS AND DUTIES OF THE LEGISLATIVE AUDIT COMMITTEE AND STATE AGENCIES REGARDING
TERMINATION OF PROGRAMS; REQUIRING THE LEGISLATIVE AUDIT COMMITTEE TO CONDUCT
PERFORMANCE AUDITS OF AGENCY PROGRAMS TO BE TERMINATED; PROVIDING FOR THE CONTENT
OF PERFORMANCE AUDITS; REQUIRING THE CODE COMMISSIONER TO SUBMIT LEGISLATION;
EXEMPTING FROM THE UNFUNDED MANDATE LAW AMOUNTS REQUIRED TO BE SPENT BY A LOCAL
GOVERNMENT UNIT AS THE RESULT OF THE SCHEDULED TERMINATION OF AN AGENCY PROGRAM;
AMENDING SECTIONS 1-2-112, 2-8-101, 2-8-102, 2-8-111, 2-8-112, 2-8-113, 2-15-1519, 2-15-1816,
2-15-2005, 2-17-112, 15-30-121, 15-65-101, 15-65-121, 16-11-308, 17-7-502, 18-4-302, 20-2-115,
20-2-121, 25-1-201, 45-8-332, 50-5-215, 50-37-107, 50-37-108, 50-37-109, 50-60-202, 50-61-102,
50-61-112, 50-61-114, 50-61-121, 50-62-101, 50-62-102, 50-62-103, 50-62-104, 50-62-106,
50-62-107, 52-1-103, 52-2-724, 52-2-733, 52-4-205, 53-20-307, 75-11-302, 77-1-405, 77-2-203,
77-5-104, 90-6-205, 90-6-207, 90-6-209, AND 90-8-201, MCA; REPEALING SECTIONS 2-15-2214,
2-15-3104, 15-30-155, 15-30-156, 15-30-157, 15-65-122, 15-65-131, 17-5-1325, 17-6-401,
17-6-402, 17-6-403, 17-6-406, 17-6-407, 17-6-408, 17-6-409, 17-6-411, 20-7-901, 20-7-902,
20-7-903, 20-7-904, 23-1-301, 23-1-302, 23-1-303, 23-1-311, 23-1-312, 23-1-313, 23-1-314,
41-3-701, 41-3-702, 41-3-703, 41-3-704, 41-3-705, 44-2-701, 44-2-702, 44-2-703, 44-2-704,
44-2-705, 50-3-101, 50-3-102, 50-3-103, 50-3-106, 50-61-113, 52-2-734, 76-12-101, 76-12-102,
76-12-103, 76-12-104, 76-12-107, 76-12-108, 76-12-109, 76-12-110, 76-12-111, 76-12-112,
76-12-115, 76-12-116, 76-12-117, 76-12-121, 76-12-123, 80-12-101, 80-12-102, 80-12-103,
80-12-104, 80-12-201, 80-12-202, 80-12-203, 80-12-204, 80-12-205, 80-12-211, 80-12-215,
80-12-216, 80-12-301, 80-12-302, 80-12-303, 80-12-304, 80-12-305, 80-12-306, 80-12-307,
80-12-308, 80-12-309, 80-12-312, 80-12-313, 80-12-314, 81-6-301, 81-6-302, 81-6-311, 81-6-312,
81-6-313, 81-6-314, 87-1-210, 90-4-601, 90-4-602, 90-4-605, 90-4-606, 90-4-607, 90-4-611,
90-4-612, 90-4-613, 90-4-614, 90-6-210, 90-6-501, 90-6-502, 90-6-503, 90-6-504, 90-6-505,

1 90-6-506, 90-6-507, 90-14-101, 90-14-102, 90-14-103, 90-14-104, 90-14-105, 90-14-106,
2 90-14-107, 90-14-108, AND 90-14-109, MCA; AND PROVIDING EFFECTIVE DATES."

3

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

5

6 **Section 1.** Section 1-2-112, MCA, is amended to read:

7 **"1-2-112. Statutes imposing new local government duties.** (1) Except as provided in this section,
8 a law enacted by the legislature that requires a local government unit to perform an activity or provide a
9 service or facility that requires the direct expenditure of additional funds must provide a specific means
10 to finance the activity, service, or facility other than mill levies or the all-purpose mill levy. Any law that
11 fails to provide a specific means to finance any activity, service, or facility is not effective until specific
12 means of financing are provided by the legislature from state or federal funds.

13 (2) The legislature may fulfill the requirements of this section by providing for an increase in the
14 existing authorized mill levies, the all-purpose mill levy, special mill levies, or the remission of money by
15 the state to local governments. However, an increase in the existing authorized mill levies, the all-purpose
16 mill levy, or any special mill levy must provide an amount necessary to finance the additional costs, and
17 if financing is provided by remission of funds by the state, the remission must bear a reasonable
18 relationship to the actual cost of performing the activity or providing the service or facility.

19 (3) Subsequent legislation may not be considered to supersede or modify any provision of this
20 section, whether by implication or otherwise, except to the extent that the legislation does so expressly.

21 (4) This section does not apply to:

22 (a) any law under which the required expenditure of additional local funds is an insubstantial
23 amount that can be readily absorbed into the budget of an existing program. A required expenditure of the
24 equivalent of approximately 0.1 mill or less levied on taxable property of the local government unit may
25 be considered an insubstantial amount.

26 (b) a law necessary to implement the National Voter Registration Act of 1993, Public Law
27 103-31; or

28 (c) an amount expended by a local government unit as the result of termination of a state agency,
29 as defined in 1-2-116, pursuant to [section 4]."

30

1 **Section 2.** Section 2-8-101, MCA, is amended to read:

2 **"2-8-101. Purpose.** (1) The legislature finds state government actions have produced a substantial
3 increase in numbers of agencies, growth of programs, and proliferation of rules. The legislature questions
4 whether conditions causing the establishment of these agencies, programs, and rules have not changed
5 to ~~such an extent as to remove~~ that removes the need for some or all of the agencies, programs, and rules.

6 (2) It is the policy of this state that all state government services be performed in the most
7 effective and efficient manner in order to provide the best value to the citizens of the state. The state
8 shall provide and conduct only those services that represent appropriate government services and are
9 responsive to public needs. The state also recognizes that innovation and creativity should be encouraged
10 in government services.

11 ~~(2)~~(3) It is the intent of the legislature, by establishing a system of periodic evaluation of the need
12 for and the performance of agencies or programs preparatory to termination, modification, or
13 reestablishment, to be in a better position to ensure as follows:

14 (a) The executive ~~department~~ branch is responsive to the needs of all of the people of the state.

15 (b) No agency, program, or rule exists ~~which~~ that is not responsive to those needs and that is
16 otherwise unnecessary or is an inappropriate function for government to perform.

17 (c) No profession, occupation, business, industry, or other endeavor is subject to the state's
18 ~~regulatory power~~ governance unless the exercise of ~~such power~~ that governance is necessary to protect
19 the public health, safety, or welfare from significant and discernible harm or damage. ~~The exercise of the~~
20 state's ~~police power shall~~ governance must be ~~done~~ exercised only to the extent necessary for that
21 purpose and in that case must be exercised effectively and efficiently.

22 (d) The state may not regulate a profession, occupation, industry, business, or other endeavor in
23 a manner ~~which~~ that will unreasonably adversely affect the competitive market.

24 (e) There exists a systematic legislative review of the need for and public benefits derived from
25 a program or function by a periodic review and termination, modification, or reestablishment of ~~such~~ those
26 programs and functions.

27 (f) If a service or function offered by a state government program is also offered by the private
28 sector, the services of the state program must be evaluated with the utmost care to determine whether
29 the program is truly necessary or is operating in a manner that will complement but not replace the
30 services available from the private sector."

1

2 **Section 3.** Section 2-8-102, MCA, is amended to read:

3 **"2-8-102. Definitions.** As used in this part, unless the context indicates otherwise, the following
4 definitions apply:

5 (1) "Agency" means an office, position, commission, committee, board, department, council,
6 division, bureau, section, or any other entity or instrumentality of the executive ~~department~~ branch of state
7 government.

8 (2) "Legislative audit committee" or "committee" means the legislative audit committee provided
9 for in 5-13-201.

10 ~~(2)(3)~~ "Performance audit" means an examination of the effectiveness of administration and its
11 efficiency and adequacy in terms of the program of a state agency authorized by law to be performed and
12 the conformance of expenditures with legislative intent. ~~Audits conducted shall include an analysis of the~~
13 ~~operation of the agency, with special regard to the duplication of efforts between the audited agency or~~
14 ~~program and other agencies or programs and the quality of service being rendered.~~

15 ~~(3)(4)~~ "Program" means any legislatively or administratively created function, project, or duty of
16 an agency."

17

18 NEW SECTION. **Section 4. Agency programs terminated -- programs listed.** (1) The following
19 agency programs terminate July 1, 2003, unless reauthorized by the legislature pursuant to 2-8-112(4),
20 in which case the programs terminate on July 1, 8 years after the reauthorization:

21 (a) tourism promotion program provided for in 15-65-121;

22 (b) gifted and talented children's program provided for in 20-2-121 and Title 20, chapter 7, part
23 9;

24 (c) coal area highway reconstruction program provided for in 90-6-210;

25 (d) reverse annuity mortgage loan program provided for in Title 90, chapter 6, part 5;

26 (e) natural areas program provided for in Title 76, chapter 12, part 1;

27 (f) child abuse and neglect prevention program provided for in Title 41, chapter 3, part 7;

28 (g) Montana agricultural loan authority program provided for in Title 80, chapter 12;

29 (h) microbusiness development program provided for in Title 17, chapter 6, part 4;

30 (i) state building energy conservation program provided for in Title 90, chapter 4, part 6;

- 1 (j) livestock crimestoppers program provided for in Title 81, chapter 6, part 3;
- 2 (k) Montana community service program provided for in Title 90, chapter 14, part 1, and the
3 Montana conservation corps program provided for in Title 23, chapter 1, part 3;
- 4 (l) Montana drug abuse resistance education program provided for in Title 44, chapter 2, part 7;
- 5 (m) tobacco education program provided for in 16-11-308;
- 6 (n) conservation education program provided for in 87-1-210;
- 7 (o) state fire prevention and investigation program provided for in 2-15-2005 and in Title 50,
8 chapter 3; and
- 9 (p) central stores program provided for in 18-4-302.
- 10 (2) The following agency programs terminate July 1, 2005, unless reauthorized by the legislature
11 pursuant to 2-8-112(4), in which case the programs terminate on July 1, 8 years after the reauthorization:
- 12 (a) energy conservation in agriculture program provided for in 90-2-140;
- 13 (b) crop insect alternative control program provided for in 80-7-503;
- 14 (c) environmental contingency grant program provided for in Title 75, chapter 1, part 11;
- 15 (d) weed control management program provided for in 77-1-810;
- 16 (e) seed capital projects program provided for in 90-9-312;
- 17 (f) property tax assistance program provided for in 15-6-134;
- 18 (g) salvage timber program provided for in 77-5-207;
- 19 (h) historic property tax abatement program provided for in Title 15, chapter 24, part 16;
- 20 (i) highway traffic safety program provided for in Title 61, chapter 2, part 1;
- 21 (j) community and urban forestry program provided for in Title 77, chapter 5, part 4;
- 22 (k) youth voting program provided for in Title 13, chapter 22, part 1;
- 23 (l) voluntary waste pesticide and pesticide container collections, disposal, and recycling program
24 provided for in 80-8-111;
- 25 (m) state water leasing program provided for in 85-2-141;
- 26 (n) fish, wildlife, and parks crimestoppers program provided for in 87-5-605;
- 27 (o) state water plan program provided for in 85-1-203;
- 28 (p) ground water characterization program provided for in 85-2-906;
- 29 (q) ground water monitoring program provided for in 85-2-906;
- 30 (r) farm applicator permit program provided for in 80-8-209; and

1 (s) agricultural chemical ground water management plan program provided for in Title 80, chapter
2 15.

3 (3) The following agency programs terminate July 1, 2007, unless reauthorized by the legislature
4 pursuant to 2-8-112(4), in which case the programs terminate on July 1, 8 years after the reauthorization:

5 (a) noxious weed seed free forage program provided for in Title 80, chapter 7, part 9;

6 (b) family practice training program provided for in Title 50, chapter 5, part 6;

7 (c) voluntary statewide genetics program provided for in 50-19-211;

8 (d) upland game bird enhancement program provided for in 87-1-246;

9 (e) unified investment program provided for in 17-6-201;

10 (f) Montana initiative for the abatement of mortality in infants program provided for in Title 50,
11 chapter 19, part 3;

12 (g) job investment program provided for in Title 17, chapter 6, part 5;

13 (h) hail insurance program provided for in Title 80, chapter 2, part 2;

14 (i) rangeland improvement loan program provided for in 76-14-111;

15 (j) employee incentive program provided for in Title 2, chapter 18, part 11;

16 (k) subdivision review program provided for in Title 76, chapter 4, part 1;

17 (l) contractor registration program provided for in Title 39, chapter 9;

18 (m) Montana sustainable agriculture research and education program provided for in 20-25-233
19 through 20-25-236;

20 (n) treasure state endowment program provided for in Title 90, chapter 6, part 7;

21 (o) treasure state living cultural treasures program provided for in 2-15-236;

22 (p) battered spouses and domestic violence grant program provided for in Title 52, chapter 6, part
23 1;

24 (q) university system travel research program provided for in 15-65-121;

25 (r) cropland spraying program provided for in Title 80, chapter 7, part 5;

26 (s) model school integrated pest and pesticide management safety program provided for in Title
27 80, chapter 8, part 4;

28 (t) soil survey and mapping program provided for in Title 76, chapter 11, part 2;

29 (u) retail sale of pesticides education program provided for in 80-8-212.

30 (4) The following agency programs terminate July 1, 2009, unless reauthorized by the legislature

- 1 pursuant to 2-8-112(4), in which case the programs terminate on July 1, 8 years after the reauthorization:
- 2 (a) rangeland programs described in Title 76, chapter 14, part 1;
- 3 (b) floodway management program provided for in Title 76, chapter 5, parts 1 through 4;
- 4 (c) raw milk testing program provided for in 81-23-105;
- 5 (d) public records management program provided for in Title 2, chapter 6, part 2;
- 6 (e) state multilibrary card program provided for in 22-1-329;
- 7 (f) agriculture in Montana schools program provided for in 15-30-151 and 15-30-152;
- 8 (g) state meat and poultry inspection program provided for in 81-9-216 through 81-9-220 and
- 9 81-9-226 through 81-9-236;
- 10 (h) state matching funds program for economic development provided for in 90-1-116;
- 11 (i) Montana natural heritage program provided for in 90-15-101, 90-15-102, and 90-15-302;
- 12 (j) Montana national guard education benefit program provided for in 10-1-121;
- 13 (k) home weatherization program provided for in 90-4-201;
- 14 (l) conservation practice loan program provided for in Title 76, chapter 15, part 5;
- 15 (m) vertebrate pest management program provided for in Title 80, chapter 7, part 11;
- 16 (n) rural physician incentive program provided for in Title 20, chapter 26, part 15; and
- 17 (o) missing children information program provided for in 44-2-503.

18

19 **NEW SECTION. Section 5. Additions to or deletions from list of terminated programs.** (1) No later

20 than September 1 of each even-numbered year, the legislative audit committee shall request legislation

21 to include in the list of terminated programs provided in [section 4] those programs created by the previous

22 legislature.

23 (2) The committee may also at any time propose legislation to add a program to or delete a

24 program from the list of programs contained in [section 4].

25

26 **Section 6.** Section 2-8-111, MCA, is amended to read:

27 **"2-8-111. Prereview responsibilities of agencies.** An agency designated for termination or whose

28 program or programs are designated for termination shall, ~~by~~ no later than 22 months preceding the date

29 set for termination, provide the legislative audit committee with written evidence or other documentation

30 to:

- 1 (1) identify the legal basis and authorities for the agency or program, whether in the constitution,
2 statute, or administrative rules;
- 3 ~~(1)~~(2) delineate the goals of the programs, which goals agency or program that reflect the state's
4 constitution, statutes, and authoritative judicial, legislative, and executive decisions or pronouncements;
- 5 (3) document the following for the most recent 2 bienniums:
- 6 (a) the agency or program budgets and expenditures;
- 7 (b) the agency or program staffing level; and
- 8 (c) a description of significant changes in agency or program operation or organization;
- 9 (4) identify the constituents of the agency or program providing services or the regulated
10 population of an agency or program regulating all or a part of an industry, business, profession, or
11 occupation;
- 12 (5) identify the performance measures used for the agency or program in decisionmaking and
13 delineate how those performance measures have been used;
- 14 ~~(2)~~(6) delineate the benefit to be derived by the agency's or program's constituents or the
15 objectives of the programs and lay out, clearly enough to be tested, the logic in the assumptions linking
16 expenditures to outcome anticipated, outcome anticipated to objectives, and objectives to impact on
17 problems addressed in goals;
- 18 (7) demonstrate the extent to which the agency or program has fulfilled all of the applicable
19 requirements of law, purposes for which the agency or program was created, goals of its managers,
20 expectations of its customers or the public at large, and the measurable outcomes established for the
21 agency or program;
- 22 (8) identify the private business or segment of the private sector that most closely approximates
23 the operation of or service performed by the agency or program and delineate in any manner selected by
24 the agency:
- 25 (a) how the performance of the agency or program compares to the operation and outcome of the
26 business or segment of the private sector providing the same or similar service or regulation; and
- 27 (b) how the service or regulatory function provided by the agency or program differs from,
28 duplicates, or augments the service or regulatory function provided by the business or segment of the
29 private sector and whether all or a part of the agency or program should be changed or eliminated in light
30 of the function and performance of the business or segment of the private sector; and

1 ~~(3)~~(9) furnish to the legislative auditor, upon request of the auditor, the information necessary to
2 conduct a performance audit as required by this chapter."

3

4 **Section 7.** Section 2-8-112, MCA, is amended to read:

5 **"2-8-112. Legislative audit committee review and report -- review criteria.** (1) The legislative audit
6 committee is responsible for conducting a review of each agency or program scheduled for termination.
7 The review ~~shall~~ must be completed at least 6 months prior to the date set for termination. If for any
8 reason a review of an agency or program cannot be completed as required by this chapter, the legislative
9 audit committee shall submit a proposed ~~bill~~ legislation for the ensuing legislative session to reestablish
10 the agency or program.

11 (2) The review conducted ~~shall~~ must include a performance audit of the agency or program, with
12 emphasis on the need for the agency or program, its effect on the public health, safety, and welfare, and
13 the agency's or program's accountability, effectiveness, and efficiency. Each performance audit must
14 contain:

15 (a) an analysis of the need for the agency or program being audited with special regard for the
16 duplication of efforts between the audited agency or program and other agencies or programs;

17 (b) the quality of service being rendered by the agency or program; and

18 (c) an analysis of the outcomes or product of the agency's or program's work and whether a
19 particular outcome meets the needs of the public and is appropriate for a governmental agency or program.

20 (3) The ~~legislative audit~~ committee shall assist in the implementation of the provisions of this part
21 and shall establish administrative procedures ~~which~~ that facilitate the review and evaluation as required
22 in this part.

23 (4) Upon completion of its review, the ~~legislative audit~~ committee shall, as provided in 5-11-210,
24 make a report of its recommendations for continuation, ~~or~~ modification, of a program or agency scheduled
25 to be terminated pursuant to [section 4] or for modification, continuation, or termination of an agency or
26 program pursuant to 2-8-105 and submit a proposed bill necessary legislation to the ensuing legislative
27 session. The report of the committee's performance audit must accompany any legislation considered by
28 either house of the legislature. If termination is recommended pursuant to 2-8-105, the bill should
29 legislation must repeal or otherwise deal with all statutes and parts of statutes relating to the agency's or
30 program's activities."

1

2 **Section 8.** Section 2-8-113, MCA, is amended to read:

3 **"2-8-113. Hearings by standing committee -- criteria for termination.** (1) Prior to termination of
4 an agency or program, the appropriate standing committee in each house of the legislature or a joint
5 committee of both houses composed of members of the standing committee assigned to conduct the
6 hearing shall hold a public hearing, receiving testimony from the public and the head of the department
7 to which the agency or program involved is attached or assigned, the head of the agency or program
8 involved, and persons who conducted the review.

9 (2) In the event that termination of an agency or program is recommended by the legislative audit
10 committee or if a program is to be terminated pursuant to [section 4], the agency or program involved in
11 the termination has the burden of demonstrating a public need for the agency's or program's continued
12 existence and the extent to which a change in the composition, structure, and operation of the agency or
13 program would improve public health, safety, ~~or~~ and welfare and the agency's or program's effectiveness,
14 cost benefits, or efficiency.

15 (3) In determining whether to enact legislation to terminate or reestablish an agency or program,
16 the legislature shall consider the performance audit and review conducted by the legislative audit
17 committee, public testimony, and other matters considered relevant by the committee."
18

18

19 **Section 9.** Section 2-15-1519, MCA, is amended to read:

20 **"2-15-1519. Fire services training advisory council.** (1) The board of regents shall appoint a fire
21 services training advisory council to work with the director of the fire services training school. The
22 membership of the council ~~shall include~~ includes the following:

- 23 (a) a fire chief;
24 (b) a volunteer firefighter;
25 (c) a paid firefighter;
26 (d) a fire service instructor;
27 (e) a person involved in fire prevention;
28 (f) a representative of the insurance industry; and
29 (g) a professional educator.

30 (2) The board shall solicit and consider the recommendations of appropriate organizations and

1 associations of fire service personnel in making appointments under subsection (1).

2 (3) Members shall serve for 4-year terms and may be removed for cause. If a vacancy occurs, a
3 member must be appointed to fill the unexpired term. A member may be reappointed.

4 (4) ~~A representative of the state fire prevention and investigation program of the department of~~
5 ~~justice, a fire control officer designated by the director of the department of natural resources and~~
6 ~~conservation, and the director of the fire services training school are ex officio members of the council."~~

7

8 **Section 10.** Section 2-15-1816, MCA, is amended to read:

9 **"2-15-1816. Tourism advisory council.** (1) There is created a tourism advisory council.

10 (2) The council is composed of not less than 12 members appointed by the governor from
11 Montana's private sector travel industry and includes at least one member from Indian tribal governments,
12 with representation from each tourism region initially established by executive order of the governor and
13 as may be modified by the council under subsection (5).

14 (3) Members of the council shall serve staggered 3-year terms, subject to replacement at the
15 discretion of the governor. The governor shall designate four of the initial members to serve 1-year terms
16 and four of the initial members to serve 2-year terms.

17 (4) The council shall:

18 ~~(a) oversee distribution of funds to regional nonprofit tourism corporations for tourism promotion~~
19 ~~and to nonprofit convention and visitors bureaus in accordance with Title 15, chapter 65, part 1, and this~~
20 ~~section;~~

21 ~~——(b)(a) advise the department of commerce relative to tourism promotion;~~

22 ~~(c)(b) advise the governor on significant matters relative to Montana's travel industry;~~

23 ~~(d) prescribe allowable administrative expenses for which accommodation tax proceeds may be~~
24 ~~used by regional nonprofit tourism corporations and nonprofit convention and visitors bureaus;~~

25 ~~——(e)(c) direct the university system regarding Montana travel research;~~

26 ~~(f)(d) approve all travel research programs prior to their being undertaken; and~~

27 ~~(g)(e) encourage regional nonprofit tourism corporations to promote tourist activities on Indian~~
28 ~~reservations in their regions.~~

29 (5) The council may modify the tourism regions established by executive order of the governor.

30 (6) The department of commerce shall adopt such rules as may be necessary to implement and

1 administer Title 15, chapter 65, part 1, and this section."

2

3 **Section 11.** Section 2-15-2005, MCA, is amended to read:

4 **"2-15-2005. ~~State fire~~ Fire prevention and investigation program -- advisory council.** ~~(1) There is~~
5 ~~a state fire prevention and investigation program in the department of justice and under the supervision~~
6 ~~and control of the attorney general.~~

7 ~~————(2) A person appointed to administer the fire prevention and investigation program shall represent~~
8 ~~the state of Montana as the state fire marshal and must be a person qualified by experience, training, and~~
9 ~~high professional competence in matters of fire service and safety.~~

10 ~~————(3) The attorney general shall create a fire prevention and investigation advisory council in~~
11 ~~accordance with procedures provided in 2-15-122."~~

12

13 **Section 12.** Section 2-17-112, MCA, is amended to read:

14 **"2-17-112. Fire protection for state-owned buildings -- department of administration -- ~~state fire~~**
15 **~~prevention and investigation program.~~** (1) The department of administration shall obtain information
16 necessary to prepare a budget for each biennium for fire protection services for state-owned buildings that
17 present particular firefighting problems ~~as determined by the state fire prevention and investigation~~
18 ~~program of the department of justice.~~ In preparing the budget, the state may consider providing protection
19 directly or contracting for protection with a local fire service and making payments to local governments
20 for fire services provided to state agencies, all of which are subject to appropriation by the legislature.

21 (2) The department of justice shall review provisions for protection of state-owned buildings ~~in~~
22 ~~connection with inspections conducted under 50-3-102."~~

23

24 **Section 13.** Section 15-30-121, MCA, is amended to read:

25 **"15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there
26 are allowed as deductions:

27 (a) the items referred to in sections 161, including the contributions referred to in
28 33-15-201(5)(b), and 211 of the Internal Revenue Code of 1954 (26 U.S.C. 161 and 211), or as sections
29 161 and 211 are labeled or amended, subject to the following exceptions, which are not deductible:

30 (i) items provided for in 15-30-123;

- 1 (ii) state income tax paid;
- 2 (iii) premium payments for medical care as provided in subsection (1)(g)(i);
- 3 (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii);
- 4 (b) federal income tax paid within the tax year;
- 5 (c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through
- 6 (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through
- 7 (1)(c)(vi), as follows:
- 8 (i) expenses for household and dependent care services necessary for gainful employment incurred
- 9 for:
- 10 (A) a dependent under 15 years of age for whom an exemption can be claimed;
- 11 (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross
- 12 income do not apply, who is unable to provide self-care because of physical or mental illness; and
- 13 (C) a spouse who is unable to provide self-care because of physical or mental illness;
- 14 (ii) employment-related expenses incurred for the following services, but only if the expenses are
- 15 incurred to enable the taxpayer to be gainfully employed:
- 16 (A) household services that are attributable to the care of the qualifying individual; and
- 17 (B) care of an individual who qualifies under subsection (1)(c)(i);
- 18 (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the
- 19 household is furnished by an individual or, if the individual is married during the applicable period, is
- 20 furnished by the individual and the individual's spouse;
- 21 (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following
- 22 limitations:
- 23 (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred
- 24 during the year only to the extent that the expenses do not exceed \$4,800;
- 25 (B) expenses for services in the household are deductible under subsection (1)(c)(i) for
- 26 employment-related expenses only if they are incurred for services in the taxpayer's household, except
- 27 that employment-related expenses incurred for services outside the taxpayer's household are deductible,
- 28 but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to
- 29 the extent that the expenses incurred during the year do not exceed:
- 30 (l) \$2,400 in the case of one qualifying individual;

- 1 (II) \$3,600 in the case of two qualifying individuals; and
- 2 (III) \$4,800 in the case of three or more qualifying individuals;
- 3 (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year
- 4 during which the expenses are incurred, the amount of the employment-related expenses incurred, to be
- 5 reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
- 6 (vi) for purposes of this subsection (1)(c):
- 7 (A) married couples shall file a joint return or file separately on the same form;
- 8 (B) if the taxpayer is married during any period of the tax year, employment-related expenses
- 9 incurred are deductible only if:
- 10 (I) both spouses are gainfully employed, in which case the expenses are deductible only to the
- 11 extent that they are a direct result of the employment; or
- 12 (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);
- 13 (C) an individual legally separated from the individual's spouse under a decree of divorce or of
- 14 separate maintenance may not be considered as married;
- 15 (D) the deduction for employment-related expenses must be divided equally between the spouses
- 16 when filing separately on the same form;
- 17 (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax
- 18 year and payments made to an individual with respect to whom a deduction is allowable under
- 19 15-30-112(5) are not deductible as employment-related expenses;
- 20 (d) in the case of an individual, political contributions determined in accordance with the provisions
- 21 of section 218(a) and (b) of the Internal Revenue Code (now repealed) that were in effect for the tax year
- 22 ended December 31, 1978;
- 23 (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct
- 24 allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;
- 25 ~~(f) contributions to the child abuse and neglect prevention program provided for in 41-3-701,~~
- 26 ~~subject to the conditions set forth in 15-30-156;~~
- 27 ~~——(g)(f) the entire amount of premium payments made by the taxpayer, except premiums deducted~~
- 28 ~~in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:~~
- 29 (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the
- 30 taxpayer's dependents, and the parents and grandparents of the taxpayer; and

1 (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified
2 long-term care services, as defined in 26 U.S.C. 7702B(c), for:

3 (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

4 (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of
5 the taxpayer for tax years beginning after December 31, 1996;

6 ~~(h) contributions to the Montana drug abuse resistance education program provided for in
7 44-2-702, subject to the conditions set forth in 15-30-159; and~~

8 ~~———(h)(g)~~ light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the
9 tax year.

10 (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care
11 home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's
12 own child and at least one unrelated child in the ordinary course of business may deduct
13 employment-related expenses considered to have been paid for the care of the child.

14 (b) The amount of employment-related expenses considered to have been paid by the taxpayer
15 is equal to the amount that the taxpayer charges for the care of a child of the same age for the same
16 number of hours of care. The employment-related expenses apply regardless of whether any expenses
17 actually have been paid. Employment-related expenses may not exceed the amounts specified in
18 subsection (1)(c)(iv)(B).

19 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
20 deduction under this subsection (2). ~~(Subsection (1)(h) terminates on occurrence of contingency--sec. 12,
21 Ch. 808, L. 1991.)"~~

22

23 **Section 14.** Section 15-65-101, MCA, is amended to read:

24 **"15-65-101. Definitions.** For purposes of this part, the following definitions apply:

25 (1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use
26 of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation,
27 entertainment, or any other similar charges.

28 (2) "Campground" means a place, publicly or privately owned, used for public camping where
29 persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping
30 purposes. The term does not include that portion of a trailer court, trailer park, or mobile home park

1 intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30
2 consecutive days or more.

3 ~~(3) "Council" means the tourism advisory council established in 2-15-1816.~~

4 ~~——(4)(3)~~ "Facility" means a building containing individual sleeping rooms or suites, providing
5 overnight lodging facilities for periods of less than 30 days to the general public for compensation. The
6 term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory,
7 condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility. The
8 term does not include any health care facility, as defined in 50-5-101, any facility owned by a corporation
9 organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years for
10 camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose
11 average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized
12 under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility
13 that is rented solely on a monthly basis or for a period of 30 days or more.

14 ~~(5) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under~~
15 ~~Montana law and recognized by a majority of the governing body in the city or consolidated city-county~~
16 ~~in which the bureau is located.~~

17 ~~——(6) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under~~
18 ~~Montana law and recognized by the council as the entity for promoting tourism within one of several~~
19 ~~regions established by executive order of the governor."~~

20

21 **Section 15.** Section 15-65-121, MCA, is amended to read:

22 **"15-65-121. (Temporary) Distribution of tax proceeds.** ~~(1)~~ The proceeds of the tax imposed by
23 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in ~~an account in~~ the state
24 ~~special revenue~~ general fund to the credit of the department. The department may spend from that account
25 ~~in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of~~
26 ~~collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in~~
27 ~~accordance with the provisions of 15-1-501 and as provided in subsections (1)(a) through (1)(e) of this~~
28 ~~section, the department shall determine the expenditures by state agencies for in-state lodging for each~~
29 ~~reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The~~
30 ~~amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were~~

1 ~~paid by state agencies. The amount of \$400,000 each year must be deposited in the Montana heritage~~
2 ~~preservation and development account provided for in 22-3-1004. On July 1, 1997, the amount of~~
3 ~~\$45,000 is transferred to the department of commerce for purposes of a grant to the Fort Peck~~
4 ~~interpretive center. The balance of the tax proceeds received each reporting period and not deducted~~
5 ~~pursuant to the expenditure appropriation or deposited in the fund or funds from which in-state lodging~~
6 ~~expenditures were paid by state agencies or in the Montana heritage preservation and development~~
7 ~~account is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the~~
8 ~~state special revenue fund to the credit of the department of commerce for tourism promotion and~~
9 ~~promotion of the state as a location for the production of motion pictures and television commercials, to~~
10 ~~the Montana historical society, to the university system, and to the department of fish, wildlife, and parks,~~
11 ~~as follows:~~

12 ~~——— (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside~~
13 ~~historical signs and historic sites;~~

14 ~~——— (b) 2.5% to the university system for the establishment and maintenance of a Montana travel~~
15 ~~research program;~~

16 ~~——— (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state~~
17 ~~parks that have both resident and nonresident use;~~

18 ~~——— (d) 67.5% to be used directly by the department of commerce; and~~

19 ~~——— (e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to~~
20 ~~regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the~~
21 ~~total proceeds collected statewide; and~~

22 ~~——— (ii) if 22.5% of the proceeds collected annually within the limits of a city or consolidated~~
23 ~~city-county exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit~~
24 ~~tourism corporation in the region where the city or consolidated city-county is located, to be distributed~~
25 ~~to the nonprofit convention and visitors bureau in that city or consolidated city-county.~~

26 ~~——— (2) If a city or consolidated city-county qualifies under this section for funds but fails to either~~
27 ~~recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing~~
28 ~~plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism~~
29 ~~corporation in the region in which the city or consolidated city-county is located.~~

30 ~~——— (3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual~~

1 ~~marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit~~
2 ~~tourism corporation may be used by the department of commerce for tourism promotion and promotion~~
3 ~~of the state as a location for the production of motion pictures and television commercials. (Terminates~~
4 ~~July 1, 2001--sec. 23(3), Ch. 469, L. 1997.)~~

5 **15-65-121. (Effective July 1, 2001) Distribution of tax proceeds.** ~~(1) The proceeds of the tax~~
6 ~~imposed by 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in an account~~
7 ~~in the state special revenue general fund to the credit of the department. The department may spend from~~
8 ~~that account in accordance with an expenditure appropriation by the legislature based on an estimate of~~
9 ~~the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax~~
10 ~~proceeds in accordance with the provisions of 15-1-501 and as provided in subsections (1)(a) through~~
11 ~~(1)(e) of this section, the department shall determine the expenditures by state agencies for in-state~~
12 ~~lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each~~
13 ~~reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging~~
14 ~~expenditures were paid by state agencies. The balance of the tax proceeds received each reporting period~~
15 ~~and not deducted pursuant to the expenditure appropriation or deposited in the fund or funds from which~~
16 ~~in-state lodging expenditures were paid by state agencies is statutorily appropriated, as provided in~~
17 ~~17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the~~
18 ~~department of commerce for tourism promotion and promotion of the state as a location for the production~~
19 ~~of motion pictures and television commercials, to the Montana historical society, to the university system,~~
20 ~~and to the department of fish, wildlife, and parks, as follows:~~

21 ~~———(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside~~
22 ~~historical signs and historic sites;~~

23 ~~———(b) 2.5% to the university system for the establishment and maintenance of a Montana travel~~
24 ~~research program;~~

25 ~~———(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state~~
26 ~~parks that have both resident and nonresident use;~~

27 ~~———(d) 67.5% to be used directly by the department of commerce; and~~

28 ~~———(e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to~~
29 ~~regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the~~
30 ~~total proceeds collected statewide; and~~

1 ~~—— (ii) if 22.5% of the proceeds collected annually within the limits of a city or consolidated~~
 2 ~~city-county exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit~~
 3 ~~tourism corporation in the region where the city or consolidated city-county is located, to be distributed~~
 4 ~~to the nonprofit convention and visitors bureau in that city or consolidated city-county.~~

5 ~~—— (2) If a city or consolidated city-county qualifies under this section for funds but fails to either~~
 6 ~~recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing~~
 7 ~~plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism~~
 8 ~~corporation in the region in which the city or consolidated city-county is located.~~

9 ~~—— (3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual~~
 10 ~~marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit~~
 11 ~~tourism corporation may be used by the department of commerce for tourism promotion and promotion~~
 12 ~~of the state as a location for the production of motion pictures and television commercials."~~

13

14 **Section 16.** Section 16-11-308, MCA, is amended to read:

15 **"16-11-308. ~~Tobacco education fee~~ Penalties.** (1) Failure to obtain a license, as required by
 16 16-11-303, or to post signs, as provided in 16-11-304, is punishable by a civil penalty of \$100. The
 17 department may collect the penalty in the manner provided for the collection of other debts.

18 (2) A person who violates 16-11-305(1) or 16-11-307 at any one location within a 3-year period
 19 shall be punished as follows:

20 (a) A first through third offense is punishable by a verbal notification of violation.

21 (b) A fourth offense is punishable by a written notice of violation to be sent by the department
 22 of public health and human services to the owner of the establishment.

23 (c) A fifth offense is punishable by assessment against the owner of the establishment of a
 24 ~~tobacco education fee of \$500. The employee or other person who sold the tobacco product, the~~
 25 ~~establishment manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read~~
 26 ~~and view the tobacco education material.~~

27 (d) A sixth offense is punishable by suspension of the licenses required by 16-11-120 and
 28 16-11-303 for 3 months.

29 (e) A seventh and subsequent offense is punishable by suspension of the licenses required by
 30 16-11-120 and 16-11-303 for 1 year.

1 (3) After 2 years from the first violation, if a person has not received notice of any further
2 violations, a second violation is considered a first violation for the purposes of subsection (2).

3 (4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless ~~tobacco~~
4 ~~education~~ fees are paid in full.

5 (5) ~~Tobacco education fees~~ Fees must be assessed and collected by the department of public
6 health and human services. Notice of an assessment pursuant to subsection (2) and this subsection must
7 be made by the department of public health and human services within 30 days of the alleged violation
8 by certified letter addressed to the establishment owner or manager. The notice of assessment against the
9 owner of the establishment must provide an opportunity for a hearing. The hearing may be conducted
10 using electronic equipment and must comply with the provisions of the Montana Administrative Procedure
11 Act. Within 30 days from the date on which the notice of assessment was mailed, the owner or manager
12 shall notify the department of public health and human services that the owner or manager objects to the
13 assessment and request a hearing pursuant to this subsection.

14 (6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of
15 16-11-305(1) or 16-11-307 is punishable by an assessment of a ~~tobacco education~~ fee of \$25 against
16 the employee who sold the tobacco product if the employee is not the owner of the establishment. The
17 ~~tobacco education~~ fee must be assessed and collected by the department of public health and human
18 services. Within 30 days of the alleged violation, notice of assessment pursuant to this subsection must
19 be made by the department of public health and human services by certified letter addressed to the
20 employee. The notice of assessment must provide an opportunity for a hearing. The hearing may be
21 conducted using electronic equipment and must comply with the provisions of the Montana Administrative
22 Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the employee
23 shall notify the department of public health and human services that the employee objects to the
24 assessment and requests a hearing pursuant to this subsection.

25 ~~(7) The tobacco education material referred to in this section must be provided by the department~~
26 ~~of public health and human services in the form of written and video self-teaching materials. The education~~
27 ~~materials may be used only for the purposes provided in this section. Upon completion of the self-teaching~~
28 ~~materials, the establishment owner or manager shall execute a written statement on a form provided by~~
29 ~~the department of public health and human services verifying that the employee, owner, or manager, as~~
30 ~~appropriate, has read and viewed the self-teaching material and shall return the statement and the~~

1 ~~self-teaching video to the department of public health and human services.~~

2 ~~——(8)(7)~~ Upon the sixth and subsequent violation of this section, the department of public health and
 3 human services shall notify the department of revenue in writing to initiate suspension of the licenses
 4 required by 16-11-120 and 16-11-303 and shall notify the licensee in writing of the alleged violation and
 5 of the referral of the licensee's record of violations to the department of revenue for suspension of the
 6 licenses pursuant to 16-11-144 and this section. The department of revenue shall review the record of
 7 violations and may initiate license suspension proceedings in accordance with 16-11-144. If, upon a review
 8 of the record of violations, the department of revenue declines to initiate suspension proceedings, the
 9 violation may not be charged against the licensee for the purposes of this section.

10 ~~(9)(8)~~ Fees assessed pursuant to this section must be deposited in the state general fund."
 11

11

12 **Section 17.** Section 17-7-502, MCA, is amended to read:

13 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 14 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
 15 without the need for a biennial legislative appropriation or budget amendment.

16 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
 17 with both of the following provisions:

18 (a) The law containing the statutory authority must be listed in subsection (3).

19 (b) The law or portion of the law making a statutory appropriation must specifically state that a
 20 statutory appropriation is made as provided in this section.

21 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901;
 22 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702;
 23 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; ~~15-65-121~~; 15-70-101; 16-1-404;
 24 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319;
 25 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107;
 26 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301;
 27 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703;
 28 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416;
 29 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

30 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,

1 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
2 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
3 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
4 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
5 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to
6 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
7 supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1,
8 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of
9 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability
10 is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,
11 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
12 terminates June 30, 2005.)"

13

14 **Section 18.** Section 18-4-302, MCA, is amended to read:

15 **"18-4-302. Methods of source selection.** (1) Unless otherwise authorized by law, all state
16 contracts for supplies and services must be awarded by a source selection method provided for in this title.
17 Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement
18 if the prices of the supplies or services are regulated by the public service commission or other
19 governmental authority.

20 (2) At the time that the department or another agency opens bids or proposals, if a supplier's
21 current publicly advertised or established catalog price is received at or before the time that the bids or
22 proposals are opened and is less than the bid of the lowest responsible and responsive bidder or offeror
23 or improves upon the conditions for the best proposal received using the same factors and weights
24 included in the proposal, the department or agency may reject all bids and purchase the supply from that
25 supplier without meeting the requirements of 18-4-303 through 18-4-306.

26 ~~(3) An office supply procured by the department's central stores program may be purchased by~~
27 ~~an agency, without meeting the requirements of 18-4-303 through 18-4-306, from a supplier whose~~
28 ~~publicly advertised price, established catalog price, or discount price offered to the agency is less than the~~
29 ~~price offered by the central stores program if the office supply conforms in all material respects to the~~
30 ~~terms, conditions, and quality offered by the central stores program. A state office supply term contract~~

1 ~~must include a provision by which the contracting parties acknowledge and agree to the provisions of this~~
2 ~~subsection."~~

3

4 **Section 19.** Section 20-2-115, MCA, is amended to read:

5 **"20-2-115. Rules with substantial financial impact -- fiscal note -- effect without funding.** (1)

6 When developing rules, policies, and standards under 20-2-121(6), (7), and (9), ~~and (11)~~, the board of
7 public education shall determine the financial impact of the rule, policy, or standard on school districts.

8 (2) The superintendent of public instruction shall prepare a fiscal note for submission to the board,
9 using criteria and assumptions developed by the board. The fiscal note must be prepared within 30 days
10 of a request unless the board agrees to a longer time. The board may also accept other testimony and
11 exhibits on the financial impact to school districts before proceeding to rulemaking.

12 (3) If the financial impact of the proposed rule, policy, or standard is found by the board to be
13 substantial, the board may not implement the rule until July 1 following the next regular legislative session
14 and shall request the next legislature to fund implementation of the proposed rule, policy, or standard
15 through the BASE funding program. A substantial financial impact is an amount that cannot be readily
16 absorbed in the budget of an existing school district program.

17 (4) A proposed rule, policy, or standard not found by the board to have a substantial financial
18 impact on school districts or funded by the legislature may be implemented at any time."

19

20 **Section 20.** Section 20-2-121, MCA, is amended to read:

21 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

22 (1) effect an orderly and uniform system for teacher certification and specialist certification and
23 for the issuance of an emergency authorization of employment by adopting the policies prescribed by
24 20-4-102 and 20-4-111;

25 (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the
26 denial of teacher or specialist certification in accordance with the provisions of 20-4-110;

27 (3) administer and order the distribution of BASE aid in accordance with the provisions of
28 20-9-344;

29 (4) adopt and enforce policies to provide uniform standards and regulations for the design,
30 construction, and operation of school buses in accordance with the provisions of 20-10-111;

1 (5) approve or disapprove a reduction of the number of hours in a district's school day in
2 accordance with the provisions of 20-1-302;

3 (6) adopt policies prescribing the conditions when school may be conducted on Saturday and the
4 types of pupil-instruction-related days and approval procedure for ~~such~~ the days in accordance with the
5 provisions of 20-1-303 and 20-1-304;

6 (7) adopt standards of accreditation and establish the accreditation status of every school in
7 accordance with the provisions of 20-7-101 and 20-7-102;

8 (8) approve or disapprove educational media selected by the superintendent of public instruction
9 for the educational media library in accordance with the provisions of 20-7-201;

10 (9) adopt policies for the conduct of special education in accordance with the provisions of
11 20-7-402;

12 (10) adopt rules for issuance of documents certifying equivalency of completion of secondary
13 education in accordance with 20-7-131;

14 ~~(11) adopt policies for the conduct of programs for gifted and talented children in accordance with
15 the provisions of 20-7-903 and 20-7-904;~~

16 ~~———(12)~~(11) adopt rules for student assessment in the public schools; and

17 ~~(13)~~(12) perform any other duty prescribed from time to time by this title or any other act of the
18 legislature."

19

20 **Section 21.** Section 25-1-201, MCA, is amended to read:

21 **"25-1-201. Fees of clerk of district court.** (1) The clerk of the district court shall collect the
22 following fees:

23 (a) at the commencement of each action or proceeding, except a petition for dissolution of
24 marriage, from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor,
25 \$80; for filing a petition for dissolution of marriage, ~~\$160~~ \$155; for filing a petition for legal separation,
26 ~~\$150~~ \$145; and for filing a petition for a contested amendment of a final parenting plan, \$120;

27 (b) from each defendant or respondent, on appearance, \$60;

28 (c) on the entry of judgment, from the prevailing party, \$45;

29 (d) for preparing copies of papers on file in the clerk's office, 50 cents a page for the first five
30 pages of each file, for each request, and 25 cents for each additional page;

- 1 (e) for each certificate, with seal, \$2;
- 2 (f) for oath and jurat, with seal, \$1;
- 3 (g) for a search of court records, 50 cents for each year searched, not to exceed a total of \$25;
- 4 (h) for filing and docketing a transcript of judgment or transcript of the docket from all other
5 courts, the fee for entry of judgment provided for in subsection (1)(c);
- 6 (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;
- 7 (j) for transmission of records or files or transfer of a case to another court, \$5;
- 8 (k) for filing and entering papers received by transfer from other courts, \$10;
- 9 (l) for issuing a marriage license, \$30;
- 10 (m) on the filing of an application for informal, formal, or supervised probate or for the
11 appointment of a personal representative or the filing of a petition for the appointment of a guardian or
12 conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;
- 13 (n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative
14 of the estate of a nonresident decedent, \$55;
- 15 (o) for filing a declaration of marriage without solemnization, \$30;
- 16 (p) for filing a motion for substitution of a judge, \$100;
- 17 (q) for filing a petition for adoption, \$75.
- 18 (2) Except as provided in subsections (3) through (11), 32% of all fees collected by the clerk of
19 the district court must be deposited in and credited to the district court fund. If no district court fund
20 exists, that portion of the fees must be deposited in the general fund for district court operations. The
21 remaining portion of the fees must be remitted to the state general fund.
- 22 (3) In the case of a fee collected for issuing a marriage license or filing a declaration of marriage
23 without solemnization, \$23.60 must be deposited in and credited to the state general fund and \$6.40 must
24 be deposited in and credited to the county general fund.
- 25 (4) (a) Of the fee for filing a petition for dissolution of marriage, \$75 must be deposited in the
26 state general fund, ~~\$5 must be deposited in the children's trust fund account established in 41-3-702~~, \$9
27 must be deposited in the civil legal assistance for indigent victims of domestic violence account established
28 in 3-2-714, \$30 must be deposited in the partner and family member assault intervention and treatment
29 fund established in 40-15-110, and \$21 must be deposited in and credited to the district court fund. If no
30 district court fund exists, the \$21 must be deposited in the general fund for district court operations.

1 (b) Of the fee for filing a petition for legal separation, \$75 must be deposited in the state general
2 fund, ~~\$5 must be deposited in the children's trust fund account established in 41-3-702~~, \$30 must be
3 deposited in the partner and family member assault intervention and treatment fund established in
4 40-15-110, and \$20 must be deposited in and credited to the district court fund. If no district court fund
5 exists, the \$20 must be deposited in the general fund for district court operations.

6 (5) (a) Before the percentages contained in subsection (2) are applied and the fees deposited in
7 the district court fund or the county general fund or remitted to the state, the clerk of the district court
8 shall deduct from the following fees the amounts indicated:

9 (i) at the commencement of each action or proceeding and for filing a complaint in intervention,
10 as provided in subsection (1)(a), \$35;

11 (ii) from each defendant or respondent, on appearance, as provided in subsection (1)(b), \$25;

12 (iii) on the entry of judgment, as provided in subsection (1)(c), \$15; and

13 (iv) from the applicant or petitioner, on the filing of an application for probate or for the
14 appointment of a personal representative or on the filing of a petition for appointment of a guardian or
15 conservator, as provided in subsection (1)(m), \$15.

16 (b) The clerk of the district court shall deposit the money deducted in subsection (5)(a) in the
17 county general fund for district court operations unless the county has a district court fund. If the county
18 has a district court fund, the money must be deposited in that fund.

19 (6) The fee for filing a motion for substitution of a judge, as provided in subsection (1)(p), must
20 be remitted to the state general fund.

21 (7) Fees collected under subsections (1)(d) through (1)(i) must be deposited in the district court
22 fund. If no district court fund exists, fees must be deposited in the general fund for district court
23 operations.

24 (8) The clerk of the district court shall remit to the credit of the state general fund \$20 of each
25 fee collected under the provisions of subsections (1)(a) through (1)(c), (1)(m), and (1)(n) to fund a portion
26 of judicial salaries.

27 (9) (a) The fee for filing a petition for a contested amendment of a parenting plan must be remitted
28 by the clerk of the district court to the credit of the district court to defray the costs of the
29 court-sanctioned educational program concerning the effects of dissolution of marriage on children, as
30 required in 40-4-226, and to defray the expense of education when ordered for the investigation and

1 preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a).

2 (b) If the moving party files a statement signed by the nonmoving party agreeing not to contest
3 an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of the
4 district court may not collect from the moving party the fee for filing a petition for a contested amendment
5 of a parenting plan under subsection (1)(a).

6 (10) The clerk of district court shall remit to the credit of the special revenue account established
7 in 42-2-105 \$70 of the filing fee required in subsection (1)(q), and \$5 of the filing fee must be deposited
8 in the district court fund. If no district court fund exists, fees must be deposited in the general fund for
9 district court operations.

10 (11) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9
11 must be deposited in the civil legal assistance for indigent victims of domestic violence account established
12 in 3-2-714 and \$1 must be deposited in and credited to the district court fund for mitigation of
13 administrative costs incurred by the court in the collection of the fee. If a district court fund does not exist,
14 the \$1 must be deposited in the county general fund for district court operations."

15

16 **Section 22.** Section 45-8-332, MCA, is amended to read:

17 **"45-8-332. Definitions.** (1) "Destructive device", as used in this chapter, includes but is not
18 limited to the following weapons:

19 (a) a projectile containing an explosive or incendiary material or any other similar chemical
20 substance, including but not limited to that which is commonly known as tracer or incendiary ammunition,
21 except tracer ammunition manufactured for use in shotguns;

22 (b) a bomb, grenade, explosive missile, or similar device or a launching device therefor;

23 (c) a weapon of a caliber greater than .60 caliber ~~which~~ that fires fixed ammunition or any
24 ammunition therefor, other than a shotgun or shotgun ammunition;

25 (d) a rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch or
26 a launching device therefor and a rocket, rocket-propelled projectile, or similar device containing an
27 explosive or incendiary material or any other similar chemical substance other than the propellant for the
28 device, except devices designed primarily for emergency or distress signaling purposes;

29 (e) a breakable container ~~which~~ that contains a flammable liquid with a flashpoint of 150 degrees
30 Fahrenheit or less and ~~which~~ that has a wick or similar device capable of being ignited, other than a device

1 which is commercially manufactured primarily for the purpose of illumination.

2 (2) "Explosive", as used in this chapter, means any explosive defined in rules adopted by the
3 department of justice ~~pursuant to 50-3-102(3).~~"

4

5 **Section 23.** Section 50-5-215, MCA, is amended to read:

6 **"50-5-215. Standards for adult foster care homes.** The department may adopt rules establishing
7 standards for the licensing of adult foster care homes. The standards must provide for the safety and
8 comfort of the residents ~~and may be adopted by the department only after receiving the advice and~~
9 ~~recommendations of the state fire prevention and investigation program of the department of justice in~~
10 ~~relation to fire and safety requirements for adult foster care homes."~~

11

12 **Section 24.** Section 50-37-107, MCA, is amended to read:

13 **"50-37-107. Supervised public display of fireworks authorized.** (1) ~~The state fire prevention and~~
14 ~~investigation program of the department of justice or the governing body of a city, town, or county may,~~
15 under reasonable rules adopted by ~~them~~ it, grant permits for supervised public displays of fireworks to be
16 held by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.

17 (2) Each display ~~shall~~ must:

18 (a) be handled by a competent operator, who must be approved by the ~~state fire prevention and~~
19 ~~investigation program or the governing body of the city, town, or county in which the display is to be held;~~
20 and

21 (b) be located, discharged, or fired as, in the opinion of the ~~state fire prevention and investigation~~
22 ~~program or the chief of the fire department or other officer designated by the governing body of the city,~~
23 town, or county after proper inspection, not to be hazardous to persons or property.

24 (3) Application for permits ~~shall~~ must be made in writing at least 15 days prior to the date of the
25 display.

26 (4) After the privilege has been granted, sales, possession, use, and distribution of fireworks for
27 the display are lawful for that purpose only.

28 (5) ~~No~~ A permit granted under this section is not transferable."
29

30 **Section 25.** Section 50-37-108, MCA, is amended to read:

1 **"50-37-108. Damage indemnity bond required for public display.** ~~The state fire prevention and~~
 2 ~~investigation program or the~~ governing body of the city, town, or county shall require a bond considered
 3 adequate by the ~~state fire prevention and investigation program or~~ governing body from the licensee in a
 4 sum not less than \$500, conditioned for the payment of all damages ~~which~~ that may be caused either to
 5 a person ~~or persons~~ or to property by reason of the licensed display and arising from any acts of the
 6 licensee, ~~his or the licensee's~~ agents, employees, or subcontractors."

7

8 **Section 26.** Section 50-37-109, MCA, is amended to read:

9 **"50-37-109. Confiscation.** ~~A representative of the state fire prevention and investigation program~~
 10 ~~or any~~ sheriff, police officer, or constable shall seize, take, remove, or cause to be removed at the expense
 11 of the owner all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation
 12 of this chapter."

13

14 **Section 27.** Section 50-60-202, MCA, is amended to read:

15 **"50-60-202. Department to be sole state agency to promulgate building regulations -- exception.**
 16 ~~No~~ A state agency ~~except other than~~ the department may not promulgate building regulations as defined
 17 in 50-60-101, except that the department of justice may promulgate regulations relating to use of buildings
 18 and installation of equipment. ~~The state fire prevention and investigation program of the department of~~
 19 ~~justice shall review building plans and regulations for conformity with rules promulgated by the~~
 20 ~~department."~~

21

22 **Section 28.** Section 50-61-102, MCA, is amended to read:

23 **"50-61-102. Department of justice to administer chapter.** (1) The department of justice has
 24 general charge and supervision of the enforcement of this chapter, and the officers enumerated in
 25 50-61-114 shall act under its general charge and supervision, shall assist the department in giving effect
 26 to this chapter, and are subject to its direction and the rules ~~adopted under 50-3-102 and 50-3-103~~ for
 27 the enforcement of 50-61-120 and 50-61-121 and this chapter.

28 (2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality,
 29 district, or fire service area, the department may certify a municipal, district, or fire service area fire
 30 inspection program for local enforcement."

1

2 **Section 29.** Section 50-61-112, MCA, is amended to read:

3 **"50-61-112. Prior approval required for construction or alteration of educational and institutional**
4 **occupancies.** (1) Within an incorporated municipality, an educational or institutional occupancy, whether
5 public or private, may not be constructed or have alterations made costing \$1,500 or more until sketches
6 or architectural plans for the construction or alteration, whichever are available, are submitted to and
7 approved by the ~~state fire prevention and investigation program of the~~ department of justice.

8 (2) Outside an incorporated municipality, an assembly, educational, or institutional occupancy may
9 not be constructed or have alterations made costing \$1,500 or more until a permit has been issued for the
10 construction or alteration by the county commissioners. A fee of \$10 must be paid to the county treasurer
11 for each permit. A copy of the permit must be furnished to the department of revenue. ~~A permit may not~~
12 ~~be issued until sketches or architectural plans for the construction or alteration, whichever are available,~~
13 ~~are submitted to and approved by the state fire prevention and investigation program of the department~~
14 ~~of justice. The state fire prevention and investigation program of the department of justice and county~~
15 ~~sheriffs are~~ The county sheriff is responsible for enforcing the provisions of this subsection."

16

17 **Section 30.** Section 50-61-114, MCA, is amended to read:

18 **"50-61-114. Fire chief and fire inspector to make inspections.** The chief of the fire department
19 of each municipality, district, or fire service area, ~~when a fire inspection program is established, or a fire~~
20 ~~inspector of the department of justice, when a fire inspection program does not exist,~~ for the purpose of
21 examining the premises for violations of this chapter and any rules ~~adopted under 50-3-103~~ for the
22 enforcement of this chapter:

23 (1) shall enter into school buildings at least once each 12 months; and

24 (2) may enter into all other buildings and upon all other premises within the jurisdiction, according
25 to priority schedules established by the department for conducting inspections of buildings and premises."

26

27 **Section 31.** Section 50-61-121, MCA, is amended to read:

28 **"50-61-121. Restrictions on storage of smokeless powder and small arms primers.** (1) A retail
29 establishment may stock up to 400 pounds of smokeless powder on the premises of a building with a
30 sprinkler system or 200 pounds on the premises of a building without a sprinkler system if storage of this

1 stock conforms to the following conditions:

2 (a) no more than 20 pounds are on display in a customer service area;

3 (b) the storage area is clearly posted as off limits to customers;

4 (c) the storage area is clearly posted prohibiting smoking or any open flame or sparks; and

5 (d) the storage area is a room designed and constructed to restrict smoke travel that is separate
6 from the customer service area, that has a self-closing entrance door, and that conforms to one of the
7 following:

8 (i) It is constructed of material sufficient to achieve a 1-hour fire resistant-rated barrier between
9 the storage area and the customer service area. The smokeless powder must be stored in cabinets made
10 of wood or equivalent material that is at least 1 inch thick, and each cabinet must contain no more than
11 200 pounds of smokeless powder. Cabinets must be separated by 25 feet.

12 (ii) It is protected by a fire suppression sprinkler system approved by ~~the state fire prevention and~~
13 ~~investigation program of the department of justice~~ or a fire marshal of the local jurisdiction, and the storage
14 area has cabinets as provided for in subsection (1)(d)(i).

15 (iii) Smokeless powder stock is contained in a cabinet with casters and constructed of wood at
16 least 1 inch thick that is covered on all sides with 5/8-inch sheetrock.

17 (2) A retail establishment may stock up to 250,000 small arms primers if storage of this stock
18 conforms to the following conditions:

19 (a) no more than 20,000 primers in a building with a sprinkler system or 10,000 primers in a
20 building without a sprinkler system are on display in a customer service area;

21 (b) the storage area must conform to the conditions imposed in subsections (1)(a) through (1)(d),
22 except that no more than 125,000 small arms primers may be stored in one cabinet, and the minimum
23 required separation between cabinets is 15 feet; and

24 (c) small arms primers are retained in packaging approved by the U.S. department of
25 transportation."

26

27 **Section 32.** Section 50-62-101, MCA, is amended to read:

28 **"50-62-101. Entering of buildings for purpose of examination authorized.** ~~The officers of the state~~
29 ~~fire prevention and investigation program of the department of justice~~ or the chief of the fire department
30 of each municipality or district where a fire department is established at all reasonable hours may, as

1 authorized by law, enter into all buildings and upon all premises within ~~his~~ the fire department's jurisdiction
 2 for the purpose of determining whether the building or premise conforms to laws and rules relating to fire
 3 hazards and fire safety."

4

5 **Section 33.** Section 50-62-102, MCA, is amended to read:

6 **"50-62-102. Structures or conditions creating fire hazard a public nuisance -- order to remedy.**

7 (1) If any building or other structure that for want of proper repair; by reason of age, dilapidated condition,
 8 defective or poorly installed wiring and equipment, defective chimneys, defective gas connections,
 9 defective heating apparatus, or the existence of any combustible materials, flammable conditions, or other
 10 fire hazards; or for any other cause or reason is especially liable to fire and is dangerous to the safety of
 11 the building premises or to the public or is so situated as to endanger other buildings and property in the
 12 vicinity, ~~the state fire prevention and investigation program of the department of justice or other officer~~
 13 a fire chief mentioned in 50-62-101 may declare the building or other structure to be a public nuisance and
 14 proceed according to 50-62-103 or subsection (2) of this section.

15 (2) ~~If the state fire prevention and investigation program, an officer of the program, or an officer~~
 16 a fire chief mentioned in 50-62-101 determines that a building or other structure constitutes a public
 17 nuisance for any reason identified in subsection (1), ~~the department or other officer~~ fire chief shall order
 18 the hazardous condition or material to be removed or remedied. The order must be in writing and directed
 19 generally to the owner, lessee, agent, or occupant of the building or structure.

20 (3) If the hazardous condition or material can be removed or remedied within a period of 24 hours,
 21 the order must contain notice that the condition or material must be remedied or removed. The owner,
 22 lessee, agent, or occupant upon whom the notice is served who fails to comply with the notice is liable
 23 for any expenses incurred in the removal or remedying of the hazardous condition or material by the ~~fire~~
 24 ~~prevention and investigation program or other officer~~ fire chief mentioned in 50-62-101."

25

26 **Section 34.** Section 50-62-103, MCA, is amended to read:

27 **"50-62-103. Service of order to repair hazardous condition or demolish structure.** (1) ~~If the fire~~
 28 ~~prevention and investigation program of the department of justice or any officer~~ a fire chief mentioned in
 29 50-62-101, ~~upon an examination or inspection,~~ determines that a building or other structure constitutes
 30 a public nuisance for any reason identified in 50-62-102 and the condition cannot be removed or remedied

1 within 24 hours, the ~~program or officer~~ fire chief shall order the hazardous condition to be repaired or the
2 structure to be torn down or demolished and all dangerous conditions remedied.

3 (2) The order ~~shall~~ must be in writing, ~~shall~~ must recite the grounds ~~therefor~~ for the order, and
4 ~~shall~~ must be filed in the office of the clerk of the district court of the county in which the building or
5 structure ordered to be altered, repaired, or demolished is situated, ~~and thereupon~~. After the filing of the
6 order, all further proceedings for the enforcement ~~thereof shall be had~~ of the order must be held in ~~that~~
7 the court in which the order is filed.

8 (3) A copy of the order filed ~~as aforesaid~~ pursuant to subsection (2), together with a written notice
9 that it has been filed and will be put in force unless the owner, occupant, or tenant ~~shall file~~ files with the
10 clerk of the court ~~his objections~~ an objection or answer ~~thereto~~ to the order within the time specified in
11 50-62-104, ~~shall~~ must be served upon the owner and any purchaser under contract for deed of the
12 building or structure directed to be altered, repaired, or demolished. If there is a tenant occupying the
13 building, service ~~shall~~ must also be made upon ~~him~~ the tenant. Service ~~shall~~ must be made upon the owner
14 and occupant, if there is one, personally either within or ~~without~~ outside of the state.

15 (4) If the whereabouts of the owner or any purchaser under contract for deed is unknown and
16 cannot be ascertained by the ~~department of justice~~ fire chief by the exercise of reasonable diligence, then
17 upon filing in the office of the clerk of the district court an affidavit to this effect, service of the notice
18 upon the owner or any purchaser under contract for deed may be made by the clerk of the district court
19 by publication of it once in each week for 3 successive weeks in a newspaper printed and published in the
20 county in which the building or structure is located and by posting a copy ~~thereof~~ of the notice in a
21 conspicuous place upon the building or structure, ~~and the service so made~~ Service made in this manner
22 is complete upon the expiration of the publication period. Proof of service of the notice ~~shall~~ must be filed
23 in the office of the clerk of the district court within 5 days after the service ~~thereof~~ of the notice."

24

25 **Section 35.** Section 50-62-104, MCA, is amended to read:

26 **"50-62-104. Answer of owner or occupant.** (1) The owner of ~~any a~~ a building ~~so~~ condemned
27 pursuant to 50-62-103 or any occupant or lessee upon whom ~~such~~ the notice or order ~~shall be~~ provided
28 for in that section has been served, within 20 days from the date of ~~such~~ service, may file with the clerk
29 of the district court and serve upon the ~~department of justice or any officer mentioned in 50-62-101~~ fire
30 chief making the order written objections to ~~said~~ the order in the form of a verified answer denying the

1 existence of any of the alleged facts ~~therein cited which he~~ that the occupant or lessee desires to
2 controvert.

3 (2) If an answer ~~be is~~ filed and served, the court shall hear and determine the issues ~~so~~ raised by
4 the order and answer and give enter a judgment thereon on those issues."

5

6 **Section 36.** Section 50-62-106, MCA, is amended to read:

7 **"50-62-106. Hearing and judgment.** (1) The court, upon application of ~~the department of justice~~
8 ~~or any officer mentioned in 50-62-104~~ a fire chief making an order pursuant to 50-62-103, shall make its
9 an order fixing a time and place for such a hearing, ~~which time shall~~ on the order. The hearing must be
10 within 20 days from the date of the filing of the answer or as soon ~~thereafter~~ after that date as the matter
11 may be heard.

12 (2) If ~~upon trial~~ the order ~~shall be~~ is sustained by the court, judgment ~~shall be given accordingly~~
13 must be entered to that effect and a time ~~shall~~ must be fixed within which the building or structure ~~shall~~
14 must be altered, destroyed, or repaired in compliance with ~~such the~~ the order, ~~but otherwise.~~ However, if the
15 court does not sustain the order, the court shall annul or set aside the order of condemnation."

16

17 **Section 37.** Section 50-62-107, MCA, is amended to read:

18 **"50-62-107. Proceedings on failure to comply with order.** (1) If the owner or other party in
19 interest ~~shall fail~~ fails to comply with the order of condemnation of a building or structure within the time
20 fixed by the court ~~in case a trial is had therein, then~~ pursuant to 50-62-106, the ~~department of justice or~~
21 ~~any other officer authorized in 50-62-104~~ fire chief making the order pursuant to 50-62-103 may proceed
22 to cause ~~such the~~ the building or structure to be altered, repaired, or demolished in accordance with the
23 directions contained in ~~such the~~ the order.

24 (2) ~~Where~~ If a building or structure is demolished in accordance with ~~such an~~ an order, the
25 ~~department or any other officer authorized in 50-62-104~~ fire chief making the order may sell or dispose
26 of the salvaged materials ~~therefrom~~ at public auction upon 5 days' posted notice. The ~~department or other~~
27 ~~officer~~ fire chief shall keep an accurate account of the expenses incurred in carrying out the order and shall
28 credit ~~thereon~~ the proceeds of ~~such the~~ the salvage sale, if any, and shall report ~~thereon~~ on the account with
29 a statement of ~~said the~~ the expenses or the balance ~~thereof~~ of expenses, the expense incurred, and the
30 amount, if any, received from ~~such the~~ the salvage sale to the court for approval and allowance. The court

1 shall examine, correct if necessary, and allow ~~said the~~ expense account, and ~~said the~~ amount ~~so allowed~~
 2 ~~shall constitute~~ allowed constitutes a lien against the real estate on which ~~said the~~ building or structure
 3 is or was situated. If the amount ~~thereof~~ of the lien is not paid by the owner or other party in interest
 4 within 3 months after the account has been examined and approved by the court, the real estate upon
 5 which ~~said the~~ building or structure is or was situated ~~shall~~ must be sold ~~under proper~~ by order of the court
 6 by the sheriff of the county in which the ~~same property~~ is situated in the manner provided by law for the
 7 sale of real estate upon execution, ~~and the.~~ The proceeds of ~~said the~~ sale ~~shall~~ must be paid ~~into~~ to the
 8 ~~treasury of the~~ governmental unit ~~which~~ that incurred the expenses. If the amount received as salvage or
 9 on sale ~~shall exceed~~ exceeds the expense incurred by the governmental unit, the court shall direct the
 10 payment of the surplus to those parties with encumbrances, mortgages, or liens on the real estate in order
 11 of their priority and any surplus ~~thereafter~~ must be paid to the owner or ~~the payment of the same into~~ paid
 12 as the court ~~for their use and~~ directs for the owner's benefit."

13

14 **Section 38.** Section 52-1-103, MCA, is amended to read:

15 **"52-1-103. Powers and duties of department.** The department shall:

16 (1) administer and supervise all forms of child and adult protective services;

17 (2) act as the lead agency in coordinating and planning services to children with multiagency
 18 service needs;

19 (3) establish a system of councils at the state and local levels to make recommendations and to
 20 advise the department on issues, including children's issues;

21 (4) provide the following functions, as necessary, for youth in need of care:

22 (a) intake, investigation, case management, and client supervision;

23 (b) placement in youth care facilities;

24 (c) contracting for necessary services;

25 (d) protective services day care; and

26 (e) adoption;

27 (5) register or license youth care facilities, child-placing agencies, day-care facilities, community
 28 homes for persons with developmental disabilities, community homes for severely disabled persons, and
 29 adult foster care facilities;

30 (6) act as lead agency in implementing and coordinating child-care programs and services under

- 1 the Montana Child Care Act;
- 2 (7) administer the interstate compact for children;
- 3 (8) ~~(a) administer child abuse prevention services funded through child abuse grants and the~~
 4 ~~Montana children's trust fund provided for in Title 41, chapter 3, part 7; and~~
 5 ~~_____ (b) administer elder abuse prevention services;~~
- 6 (9) develop a statewide youth services and resources plan that takes into consideration local
 7 needs;
- 8 (10) administer services to the aged;
- 9 (11) provide consultant services to:
- 10 (a) facilities providing care for adults who are needy, indigent, or dependent or who have
 11 disabilities; and
- 12 (b) youth care facilities;
- 13 (12) use the staff and services of other state agencies and units of the Montana university system,
 14 within their respective statutory functions, to carry out its functions under this title;
- 15 (13) contract, as necessary, with the county board of welfare for administration of child and adult
 16 protection services for that county; and
- 17 (14) adopt rules necessary to carry out the purposes of 41-3-1126 and this chapter."
 18

19 **Section 39.** Section 52-2-724, MCA, is amended to read:

20 **"52-2-724. Provisional license -- provisional registration certificate.** (1) The department may issue
 21 a provisional license or provisional registration certificate for a period ~~which~~ that may not exceed 6 months
 22 if it finds that a day-care facility or applicant does not meet all standards established by the department,
 23 as long as the facility or applicant is attempting to meet the minimum standards.

24 (2) The department may not waive the requirement that a day-care center be certified under the
 25 provisions of ~~52-2-734 and~~ 52-2-735.

26 (3) The department may not waive the requirement that a day-care facility have current and
 27 adequate public liability insurance and fire insurance."
 28

29 **Section 40.** Section 52-2-733, MCA, is amended to read:

30 **"52-2-733. Periodic visits to facilities by department -- investigations -- consultation with licensees**

1 **and registrants.** (1) The department or its authorized representative shall make periodic visits to all licensed
2 day-care centers to ensure that minimum standards are maintained.

3 (2) The department may investigate and inspect the conditions and qualifications of any day-care
4 center, group day-care home, or family day-care home seeking or holding a license or registration
5 certificate under the provisions of this part.

6 (3) The department shall visit and inspect at least 20% of all registered family day-care homes
7 and group day-care homes in each of the governor's planning regions annually.

8 (4) The department shall make annual unannounced visits to day-care centers.

9 ~~(5) Upon request of the department, the state fire prevention and investigation program of the~~
10 ~~department of justice shall inspect any day-care facility for which a license or registration certificate is~~
11 ~~applied for or issued and shall report its findings to the department.~~

12 ~~——(6)(5) Upon request, the department shall give consultation to every licensee and registrant who~~
13 ~~desires to upgrade the services of the licensee's or registrant's program.~~

14 ~~(7)(6) This section may not be construed to require the department to conduct an inspection of~~
15 ~~each day-care facility applying for a registration certificate under the provisions of this part."~~

16

17 **Section 41.** Section 52-4-205, MCA, is amended to read:

18 **"52-4-205. Rulemaking.** ~~(1)~~ The department shall, for the purpose of licensing, adopt rules to
19 govern administration, operation, and health and safety requirements for community homes for persons
20 with severe disabilities in order to protect rights of residents. The department shall provide for temporary
21 and provisional licensing.

22 ~~(2) The state fire prevention and investigation program of the department of justice shall provide~~
23 ~~advice and recommendations to the department concerning licensing requirements for health and safety."~~

24

25 **Section 42.** Section 53-20-307, MCA, is amended to read:

26 **"53-20-307. Health and safety standards for licensing.** ~~(1)(a) After initial certification by the state~~
27 ~~fire prevention and investigation program of the department of justice, community homes must be certified~~
28 ~~annually for fire and life safety by the department of justice.~~

29 ~~——(b) The department of justice shall notify the department of public health and human services~~
30 ~~when a community home has been certified.~~

1 ~~_____ (2) (a)(1)~~ Local health officers shall certify community homes for compliance with health and
2 safety standards and shall notify the department of public health and human services when a community
3 home has been certified.

4 (2) (a) If for any reason the local authority cannot complete the certification in a timely manner,
5 the department of public health and human services is authorized to make the determination on
6 certification.

7 (b) A reasonable fee may be charged to authorized parties as defined in 53-20-303 for the health
8 and safety certification."
9

10 **Section 43.** Section 75-11-302, MCA, is amended to read:

11 **"75-11-302. Definitions.** Except as provided in subsections (2), (15), and (25), the following
12 definitions apply to this part:

13 (1) "Accidental release" means a sudden or nonsudden release, neither expected nor intended by
14 the tank owner or operator, of petroleum or petroleum products from a storage tank that results in a need
15 for corrective action or compensation for third-party bodily injury or property damage.

16 (2) "Aviation gasoline" means aviation gasoline as defined in 15-70-201. For the purposes of this
17 chapter, aviation gasoline does not include JP-4 jet fuel sold to a federal defense fuel supply center.

18 (3) "Board" means the petroleum tank release compensation board established in 2-15-2108.

19 (4) "Bodily injury" means physical injury, sickness, or disease sustained by an individual, including
20 death that results from the physical injury, sickness, or disease at any time.

21 (5) "Claim" means a written request prepared and submitted by an owner or operator or an agent
22 of the owner or operator for reimbursement of expenses caused by an accidental release from a petroleum
23 storage tank.

24 (6) "Corrective action" means investigation, monitoring, cleanup, restoration, abatement, removal,
25 and other actions necessary to respond to a release.

26 (7) "Department" means the department of environmental quality provided for in 2-15-3501.

27 (8) "Distributor" means a person who is licensed to sell gasoline, as provided in 15-70-202, and
28 who:

29 (a) in the state of Montana, engages in the business of producing, refining, manufacturing, or
30 compounding gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution;

1 (b) imports gasoline, aviation gasoline, special fuel, or heating oil for sale, use, or distribution in
2 this state;

3 (c) engages in wholesale distribution of gasoline, aviation gasoline, special fuel, or heating oil in
4 this state;

5 (d) is an exporter;

6 (e) is a dealer licensed as of January 1, 1969, except a dealer at an established airport; or

7 (f) either blends gasoline with alcohol or blends heating oil with waste oil.

8 (9) "Double-walled tank system" means a petroleum storage tank and associated product piping
9 that is designed and constructed with rigid inner and outer walls separated by an interstitial space and that
10 is capable of being monitored for leakage. The design and construction of these tank systems must meet
11 standards of the department ~~and the department of justice fire prevention and investigation bureau~~. The
12 material used in construction must be compatible with the liquid to be stored in the system, and the
13 system must be designed to prevent the release of any stored liquid.

14 (10) "Eligible costs" means expenses reimbursable under 75-11-307.

15 (11) "Export" means to transport out of the state of Montana, by means other than in the fuel
16 supply tank of a motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a
17 refinery or pipeline terminal within the state of Montana.

18 (12) "Exporter" means a person who transports, by means other than in the fuel supply tank of
19 a motor vehicle, gasoline, aviation gasoline, special fuel, or heating oil received from a refinery or pipeline
20 terminal within the state of Montana to a destination outside the state of Montana for sale, use, or
21 consumption beyond the boundaries of the state of Montana.

22 (13) "Fee" means the petroleum storage tank cleanup fee provided for in 75-11-314.

23 (14) "Fund" means the petroleum tank release cleanup fund established in 75-11-313.

24 (15) "Gasoline" means gasoline as defined in 15-70-201. For the purposes of this chapter, gasoline
25 does not include JP-4 jet fuel sold to a federal defense fuel supply center.

26 (16) "Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No.
27 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils, including navy special fuel oil and
28 bunker C; and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used
29 in the operation of heating equipment, boilers, or furnaces.

30 (17) "Import" means to receive into a person's possession or custody first after its arrival and

1 coming to rest at a destination within the state any gasoline, aviation gasoline, special fuel, or heating oil
2 shipped or transported into this state from a point of origin outside this state, other than in the fuel supply
3 tank of a motor vehicle.

4 (18) "Operator" means a person in control of or having responsibility for the daily operation of a
5 petroleum storage tank.

6 (19) (a) "Owner" means:

7 (i) a person that holds title to, controls, or possesses an interest in a petroleum storage tank; or

8 (ii) a person that owns the property on which a petroleum storage tank from which a release
9 occurred was located.

10 (b) The term does not include a person that holds an interest in a tank solely for financial security,
11 unless through foreclosure or other related actions the holder of a security interest has taken possession
12 of the tank.

13 (20) "Person" means an individual, firm, trust, estate, partnership, company, association,
14 joint-stock company, syndicate, consortium, commercial entity, corporation, or agency of state or local
15 government.

16 (21) "Petroleum" or "petroleum products" means crude oil or any fraction of crude oil that is liquid
17 at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch
18 absolute) or motor fuel blend, such as gasohol, and that is not augmented or compounded by more than
19 a de minimis amount of another substance.

20 (22) "Petroleum storage tank" means a tank that contains or contained petroleum or petroleum
21 products and that is:

22 (a) an underground storage tank as defined in 75-11-503;

23 (b) a storage tank that is situated in an underground area, such as a basement, cellar, mine, drift,
24 shaft, or tunnel;

25 (c) an aboveground storage tank with a capacity less than 30,000 gallons; or

26 (d) aboveground or underground pipes associated with tanks under subsections (22)(b) and
27 (22)(c), except that pipelines regulated under the following laws are excluded:

28 (i) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671, et seq.);

29 (ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.); and

30 (iii) state law comparable to the provisions of law referred to in subsections (22)(d)(i) and

1 (22)(d)(ii), if the facility is intrastate.

2 (23) "Property damage" means:

3 (a) physical injury to tangible property, including loss of use of that property caused by the injury;

4 or

5 (b) loss of use of tangible property that is not physically injured.

6 (24) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing
7 of petroleum or petroleum products from a petroleum storage tank into ground water, surface water,
8 surface soils, or subsurface soils.

9 (25) "Special fuel" means those combustible liquids commonly referred to as diesel fuel or another
10 volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid
11 petroleum gas. For the purposes of this chapter, special fuel does not include diesel fuel sold to a railroad
12 or a federal defense fuel supply center."

13

14 **Section 44.** Section 77-1-405, MCA, is amended to read:

15 **"77-1-405. Island parks established -- development limited.** (1) In order to retain the integrity of
16 the recreational experience associated with Montana's river and lake islands, development of undisputed
17 state-owned or state-leased island property, which is hereby designated as island parks, including islands
18 designated as state property under 70-18-203, lying within and surrounded by a navigable river, stream,
19 or lake is limited, ~~after April 30, 1997,~~ to:

20 (a) the installation of minimal signage indicating that the island is a designated island park in which
21 development has been limited and encouraging the public to help in maintaining the island park's primitive
22 character by packing out trash;

23 (b) necessary latrine facilities if approved by the fish, wildlife, and parks commission;

24 (c) footings or pilings necessary for the construction of a bridge; and

25 (d) oil and gas leasing.

26 (2) Improvements made to and agricultural operations on state-owned or state-leased island
27 property prior to April 30, 1997, may be maintained or continued, but further development is limited as
28 provided in this section.

29 (3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature
30 finds that the highest and best use of island property administered as school trust land, ~~except islands~~

1 ~~designated as natural areas pursuant to Title 76, chapter 12,~~ is for recreation and grazing and that those
 2 islands should be left in as primitive state as possible to protect from the loss of potential future revenue
 3 that could result from the failure to leave the islands in an undeveloped condition.

4 (4) For purposes of this section, state ownership or state lease of island property is disputed if
 5 the dispute arises before, on, or after April 30, 1997."

6

7 **Section 45.** Section 77-2-203, MCA, is amended to read:

8 **"77-2-203. Exchange for private land.** (1) The board is authorized to exchange state land for
 9 private land provided that the private land is of equal or greater value, as determined by the board after
 10 appraisal by a qualified land appraiser, than the state land and as closely as possible equal in area. The
 11 contents of the appraisal must be made available to any person who makes a written request to the board.
 12 The board shall place priority on exchanges ~~which that~~ result in consolidation of state lands into more
 13 compact bodies. ~~This section does not apply to exchanges undertaken under 76-12-107.~~

14 (2) If the requirements of ~~subsection (1) and~~ 77-2-204 and subsection (1) of this section are met,
 15 state lands bordering on navigable lakes and streams or other bodies of water with significant public use
 16 value may be exchanged for private land if the private land borders on similar navigable lakes, streams,
 17 or other bodies of water."

18

19 **Section 46.** Section 77-5-104, MCA, is amended to read:

20 **"77-5-104. Firewardens.** (1) The department shall appoint firewardens in the number and localities
 21 that it considers necessary.

22 (2) The supervisors and rangers of the federal forest lands within this state, whenever they
 23 formally accept the duties and responsibilities of firewardens, may be appointed firewardens.

24 (3) The following are firewardens but may not receive any additional compensation by reason of
 25 the duties imposed:

26 (a) sheriffs;

27 (b) undersheriffs;

28 (c) deputy sheriffs;

29 (d) state fish, wildlife, and parks wardens and park rangers;

30 (e) the state fish, wildlife, and parks director;

- 1 (f) the director and employees of the department designated by the director;
- 2 (g) officers of organized forest protection districts;
- 3 (h) members of the Montana highway patrol;
- 4 (i) officers of the national park service residing in Montana;
- 5 (j) officers of the bureau of Indian affairs; and
- 6 (k) county rural fire chiefs; ~~and~~
- 7 ~~(l) employees of the state fire prevention and investigation program provided for in 2-15-2005.~~
- 8 (4) The firewardens shall promptly report all fires to the department, take immediate and active
- 9 steps toward their extinguishment, report any violation of forest laws, and assist in apprehending and
- 10 convicting offenders."

11

12 **Section 47.** Section 90-6-205, MCA, is amended to read:

13 **"90-6-205. Coal board -- general powers.** The board may:

- 14 (1) retain professional consultants and advisors;
- 15 (2) adopt rules governing its proceedings;
- 16 (3) consider applications for grants from available funds;
- 17 (4) award grants, subject to 90-6-207, from available funds;
- 18 ~~(a)~~ to local governmental units, state agencies, and governing bodies of federally recognized Indian
- 19 tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact
- 20 of coal development or a major decline in coal mining or in the operation of coal-using energy complexes
- 21 by enabling them to adequately provide governmental services and facilities that are needed as a direct
- 22 consequence of an increase or decrease in coal development or in the consumption of coal by a coal-using
- 23 energy complex; and
- 24 ~~(b) notwithstanding the provisions of 90-6-207, to the department of transportation, established~~
- 25 ~~in 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway~~
- 26 ~~within the area designated in 90-6-210 if the deficiency is the direct result of increased traffic~~
- 27 ~~accompanying the development of coal resources; and~~
- 28 (5) award a grant to a local governmental unit for the purpose of paying for part or all of the credit
- 29 that the local governmental unit is obligated to give to a major new industrial facility that has prepaid
- 30 property taxes under 15-16-201. The board shall award the grant in accordance with 90-6-206."

1

2 **Section 48.** Section 90-6-207, MCA, is amended to read:

3 **"90-6-207. Priorities for impact grants.** (1) The department of commerce shall biennially designate:

4 (a) each county, incorporated city and town, school district, and other governmental unit that has
5 had or expects to have as a result of the impact of coal development a net increase or decrease in
6 estimated population of at least 10% over one of the 3-year periods specified in subsection (4);

7 (b) each county and all local governmental units within each county in which:

8 (i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act
9 has been granted by the department of environmental quality for a project within the county that will
10 establish a new coal mine to produce at least 300,000 tons a year and that the department of commerce
11 determines will commence production within 2 years;

12 (ii) the department of commerce has determined that the production of an existing mine will
13 increase or decrease by at least 1 million tons a year and that the new, expanded, or reduced production
14 will commence within 2 years of the designation;

15 (iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

16 (iv) a certificate of environmental compatibility and public need in accordance with the Montana
17 Major Facility Siting Act has been granted by the board of environmental review for a new
18 steam-generating or other new coal-burning facility that will consume at least 1 million tons a year of
19 Montana-mined coal and for which the department of commerce determines the construction or operation
20 will commence within 2 years of the designation;

21 (c) each local governmental unit located within 100 miles, measured over the shortest all-weather
22 public road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and

23 (d) each local governmental unit in which:

24 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining
25 or is scheduled to cease within 1 year; or

26 (ii) a steam-generating or other coal-burning facility that has operated under a certificate of
27 environmental compatibility and public need in accordance with the Montana Major Facility Siting Act and
28 that has consumed at least 1 million tons of Montana-mined coal a year has closed or is scheduled to close
29 within 1 year.

30 (2) Designation under subsection (1) of:

1 (a) any local governmental unit extends to and includes as a designated unit the county in which
2 it is located; and

3 (b) a county extends to and includes as a designated unit any local governmental unit in the
4 county that contains at least 10% of the total population of the county.

5 (3) ~~Except as provided in 90-6-205(4)(b), the~~ The board may not award more than 50% of the
6 funds appropriated to it each year for grants to governmental units and state agencies for meeting the
7 needs caused by an increase or decrease in coal development or in the consumption of coal by a coal-using
8 energy complex to local governmental units other than those governmental units designated under
9 subsection (1).

10 (4) For the purposes of subsection (1), the department of commerce shall use five 3-year periods
11 as follows:

12 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

13 (b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

14 (c) one consecutive 3-year period ending with the current calendar year;

15 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

16 (e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

17 (5) Attention should be given by the board to the need for community planning before the full
18 impact is realized. Applicants should be able to show how their request reasonably fits into an overall plan
19 for the orderly management of the existing or contemplated growth or decline problems.

20 (6) All funds appropriated under this part are for use related to local impact.

21 (7) All designations based on an increase in coal development or in the consumption of coal by
22 a coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) must be for 1 year. A
23 designation may not continue after the department of commerce determines that the mine, railroad, or
24 facility that provided the basis for a designation is contributing sufficient tax revenue to the designated
25 governmental unit to meet the increased costs of providing the services necessitated by the development
26 of the mine, railroad, or facility. However, nondesignated local governmental units continue to be eligible
27 for coal impact grants of not more than 50% of the funds appropriated to the board for grants in
28 circumstances in which an impact exists in a community or area directly affected by:

29 (a) the operation of a coal mine or a coal-using energy complex; or

30 (b) the cessation or reduction of coal mining activity or of the operation of a coal-using energy

1 complex."

2

3 **Section 49.** Section 90-6-209, MCA, is amended to read:

4 **"90-6-209. Limitations on grants.** (1) The board may commit itself to the expenditure of funds
5 for more than 1 year for a single project, but the board may not obligate funds not yet appropriated by the
6 legislature. The total amount of grants to state agencies, except grants made pursuant to 90-6-205~~(4)(b)~~,
7 and Indian tribes may not exceed 7% of the total money allocated to the board during each fiscal year.

8 (2) A grant to an Indian tribe under 90-6-205 may not be approved by the board unless:

9 (a) the governing body of the tribe has agreed:

10 (i) to waive its immunity from suit on any issue specifically arising from the transaction of a grant
11 obtained under this part; and

12 (ii) to the adjudication of any dispute arising out of the grant transaction in the district court of the
13 first judicial district of the state of Montana; and

14 (b) approval of the transaction has been obtained from the secretary of the United States
15 department of the interior whenever approval is necessary."

16

17 **Section 50.** Section 90-8-201, MCA, is amended to read:

18 **"90-8-201. Certification of Montana capital companies and small business investment capital**
19 **companies.** (1) The department shall certify Montana small business investment capital companies, and
20 from time to time, the department shall certify Montana capital companies. A company seeking to be
21 certified as a Montana capital company or as a Montana small business investment capital company shall
22 make written application to the department on forms provided by the department. The application must
23 contain the information required by 90-8-204 and other information that the department requires.

24 (2) The application must show that the applicant's purpose is to increase the general economic
25 welfare of the state of Montana by:

26 (a) making investment capital available to businesses in Montana; and

27 (b) allowing for investment of up to 25% of its capital base in businesses outside Montana if there
28 is a substantial likelihood that the investment will produce a qualified investment in Montana.

29 (3) Certifiable applicants include but are not limited to local and community development
30 corporations, small business administration certified development companies, and small business

1 investment companies.

2 (4) Certification is a prerequisite to and must be completed before seeking designation as a
3 qualified capital company or as a qualified Montana small business investment capital company.

4 (5) To be eligible for certification under this section as a Montana small business investment
5 capital company, the applicant shall commit to:

6 (a) accumulating private capital with the intention of being licensed as a small business investment
7 corporation by the United States small business administration as provided in Title III of the Small Business
8 Investment Act of 1958, as amended, and as implemented under 13 CFR 107;

9 (b) targeting its investments as a small business investment capital company toward
10 commercialization projects emerging from ~~centers of excellence and~~ entrepreneurship, federal laboratories,
11 the federal small business innovative research program, the federal cooperative research and development
12 agreement program, Montana university system research and development, small business incubators,
13 community development block grant programs, and projects emerging from economic development
14 programs of Montana certified communities, with the objective of providing significant investment
15 opportunities in an area where economic development capital is limited;

16 (c) considering investment opportunities originating in any Montana county; and

17 (d) adopting investment guidelines that ensure that not less than 10% of its available capital is
18 invested in counties with populations of 20,000 or less."

19

20 NEW SECTION. SECTION 51. PERFORMANCE AUDIT -- CORRECTIONS CONTRACTS. IN ADDITION TO THE AUDIT
21 REVIEWS REQUIRED UNDER [SECTION 4], THE LEGISLATIVE AUDITOR SHALL CONDUCT A PERFORMANCE AUDIT OF THE
22 DEPARTMENT OF CORRECTIONS CONTRACTS FOR THE INCARCERATION OF INMATES DURING THE BIENNIUM BEGINNING JULY
23 1, 2001.

24

25 NEW SECTION. Section 52. Repealer. Sections 2-15-2214, 2-15-3104, 15-30-155, 15-30-156,
26 15-30-157, 15-65-122, 15-65-131, 17-5-1325, 17-6-401, 17-6-402, 17-6-403, 17-6-406, 17-6-407,
27 17-6-408, 17-6-409, 17-6-411, 20-7-901, 20-7-902, 20-7-903, 20-7-904, 23-1-301, 23-1-302,
28 23-1-303, 23-1-311, 23-1-312, 23-1-313, 23-1-314, 41-3-701, 41-3-702, 41-3-703, 41-3-704,
29 41-3-705, 44-2-701, 44-2-702, 44-2-703, 44-2-704, 44-2-705, 50-3-101, 50-3-102, 50-3-103,
30 50-3-106, 50-61-113, 52-2-734, 76-12-101, 76-12-102, 76-12-103, 76-12-104, 76-12-107,

1 76-12-108, 76-12-109, 76-12-110, 76-12-111, 76-12-112, 76-12-115, 76-12-116, 76-12-117,
2 76-12-121, 76-12-123, 80-12-101, 80-12-102, 80-12-103, 80-12-104, 80-12-201, 80-12-202,
3 80-12-203, 80-12-204, 80-12-205, 80-12-211, 80-12-215, 80-12-216, 80-12-301, 80-12-302,
4 80-12-303, 80-12-304, 80-12-305, 80-12-306, 80-12-307, 80-12-308, 80-12-309, 80-12-312,
5 80-12-313, 80-12-314, 81-6-301, 81-6-302, 81-6-311, 81-6-312, 81-6-313, 81-6-314, 87-1-210,
6 90-4-601, 90-4-602, 90-4-605, 90-4-606, 90-4-607, 90-4-611, 90-4-612, 90-4-613, 90-4-614,
7 90-6-210, 90-6-501, 90-6-502, 90-6-503, 90-6-504, 90-6-505, 90-6-506, 90-6-507, 90-14-101,
8 90-14-102, 90-14-103, 90-14-104, 90-14-105, 90-14-106, 90-14-107, 90-14-108, and 90-14-109,
9 MCA, are repealed.

10

11 NEW SECTION. **Section 53. Legislation required terminating agency programs -- direction to code**
12 **commissioner.** For the purpose of terminating the programs listed in [section 4(2), (3), and (4)], the code
13 commissioner shall prepare legislation terminating those programs for introduction in the legislature
14 preceding each of the July 1 dates referred to in that section and every 8 years thereafter.

15

16 NEW SECTION. **Section 54. Codification instruction.** [Sections 4 and 5] are intended to be
17 codified as an integral part of Title 2, chapter 8, part 1, and the provisions of Title 2, chapter 8, part 1,
18 apply to [sections 4 and 5].

19

20 NEW SECTION. **Section 55. Saving clause.** [This act] does not affect rights and duties that
21 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
22 act].

23

24 NEW SECTION. **Section 56. Effective dates.** (1) [Sections 1 through 7, 52 through 54, and this
25 section] are effective on passage and approval.

26 (2) [Sections 8 through 51] are effective July 1, 2003.

27

- END -